

SEP 25 2006

**FEDERAL ELECTION COMMISSION**

999 E Street, N.W.

Washington, D.C. 20463

**FIRST GENERAL COUNSEL'S REPORT**

COMMISSION  
SECRETARIAT

2006 SEP 25 P 12: 55

**SENSITIVE**

PRE-MUR: 441

DATE REFERRED: September 18, 2006

DATE ACTIVATED: September 20, 2006

STATUTE OF LIMITATIONS: October 4, 2009

**SOURCE:**

**RESPONDENTS:**

William Scott DeLoach

**RELEVANT STATUTES:**

2 U.S.C. § 441f

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

U.S. Attorney for the Southern District of Florida

**I. INTRODUCTION**

William Scott DeLoach, the former Chief Financial Officer of PBS&J Corporation, admits that he knowingly and willfully violated 2 U.S.C. § 441f by using straw donors to disguise six contributions totaling \$11,000 made to Martincz for Senate ("Martinez Committee") in October 2004. While the factual record regarding the reimbursement scheme is limited, and we do not know the scope of the scheme or many other facts, the available information presents a sufficient basis to investigate this alleged violation. We therefore recommend the Commission find reason to believe DeLoach knowingly and willfully violated 2 U.S.C. § 441f.

<sup>1</sup> Section 441f prohibits any person from making a contribution in the name of another. This includes making a monetary contribution and attributing as the source of the money another person when in fact the contributor is the true source. See 11 C.F.R. § 110.4(b)(2)(ii).

II. DISCUSSION

The U.S. Attorney's Office for the Southern District of Florida filed a criminal information in this case on September 15, 2006, and DeLoach agreed to plead guilty to a felony under 2 U.S.C. §§ 441f and 437g(d)(1)(D). *See* Information, *U.S. v. DeLoach*, Crim. No. 06-20583 (S.D. Fla. filed Sept. 15, 2006). According to DOJ,

[T]he trial judge in this case has an aversion to formal written plea agreements. As is the case with a few other Judges, this Judge prefers to have the prosecutor state the facts underlying a plea in open court and on the record, and then have the defendant agree on the record that (s)he agrees with the facts as stated by the prosecutor.

While we have not been informed of the date on which the plea will be heard, based on information obtained from DOJ and through press reports, it may be as soon as September 29, 2006. *See* Patrick Danner and Dan Christensen, *Three Charged in Embezzlement Scheme*, *MIAMI HERALD*, Sept. 19, 2006, at A1.

The § 441f charge is one of two charges filed against DeLoach in connection with an apparent embezzlement scheme at PBS&J Corporation, a Florida-based government contractor that provides a range of services related to transportation, environmental, construction management, and civil engineering. According to the Information, DeLoach and two employees, Maria Garcia and Rosario Licata, admit that they conspired to embezzle more than \$35 million by issuing company checks to themselves, diverting money from the company healthcare benefit fund into secret bank accounts, charging personal expenses on the company credit card, and concealing the theft of these funds by altering and fabricating the company's books. In connection with this embezzlement, DeLoach, Garcia and Licata will plead guilty to a felony count of conspiracy to commit mail fraud.

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1           The factual record regarding the § 441f charge is sparse. DeLoach admits that he  
2           knowingly and willfully made \$11,000 in illegal contributions to the Martinez Committee  
3           through six straw donors on October 4 and 5, 2004, but the Information does not specify whether  
4           DeLoach used personal or corporate funds to reimburse the contributions or whether other  
5           PBS&J employees or the corporation itself were involved. In addition, it identifies the straw  
6           donors only by their initials, although, based on statements by the Assistant U.S. Attorney and a  
7           review of disclosure reports, we believe the following PBS&J employees were the conduits.

<u>DATE</u>	<u>NAME</u>	<u>AMOUNT</u>
October 4, 2004	Shannan Ighodaro	\$2,000.00
October 4, 2004	Sybil Thomas	\$1,000.00
October 5, 2004	Lourdes Fernandez	\$2,000.00
October 5, 2004	Reinaldo Fernandez	\$2,000.00
October 5, 2004	Ana Quinones	\$2,000.00
October 5, 2004	Victor Quinones	\$2,000.00

8           Despite the limited facts included in the Information and the inability of the U.S.  
9           Attorney's office to disclose grand jury evidence, news reports suggest that the  
10          reimbursement scheme may have been broader than these contributions. Importantly, one news  
11          article stated,

12               The case also carries national implications because PBS&J does  
13               business with and contributes to politicians across the country. Fort  
14               Lauderdale attorney Benson Weintraub, one of [Maria] Garcia's  
15               lawyers, said he expects other company officials and possibly the  
16               company itself to be indicted as the investigation continues.

17               "This is just the tip of the iceberg," Weintraub said.

18               Mark Schnapp, a Miami lawyer for PBS&J, acknowledged that  
19               company money apparently was used in the 1990s to make illegal  
20               reimbursements but said they "were not of any significant  
21               magnitude."

22               "Charges shouldn't be on the table, and as far as I know they  
23               aren't," Schnapp said.

1 Schnapp said DeLoach carried out the reimbursement scheme  
2 described by the government in court papers alone to put "himself  
3 into a highly visible position in the Mel Martinez campaign." He  
4 did not elaborate.

5 Danner and Christensen, Sept. 19, 2006, *supra*. Another news article stated,

6 While working for PBS&J in 2003 and 2004, DeLoach, Garcia and  
7 Licata contributed more than \$44,000 to federal candidates,  
8 election records show. Other PBS&J executives, board members  
9 and managers contributed another \$60,000 to federal candidates  
10 and PACs during the same period.

11 Individual contributions like those are the focus of the grand jury's  
12 reimbursement probe.

13 Recipients include President Bush, Florida senators Bill Nelson, a  
14 Democrat, and Mel Martinez, a Republican; and Broward U.S.  
15 Rep. Debbie Wasserman Schultz.

16 In some cases, executives' contributions added to giving by  
17 PBS&J itself or its political action committees. For example, the  
18 biggest federal recipient since 2003 is Democracy Believers, the  
19 joint leadership PAC of brothers Lincoln and Mario Diaz-Balart,  
20 Republican congressmen from Miami. DeLoach, Garcia, Licata  
21 and the PBS&J's federal PAC combined gave \$20,000 in  
22 September 2004.

23 Patrick Danner and Dan Christensen, *A Rich History of Political Giving*, MIAMI HERALD, Sept.  
24 13, 2006, at B1. In addition, although these news reports assert that PBS&J and its employees  
25 have contributed more than \$500,000 in political contributions since 2003, a search of the  
26 Commission's disclosure database by employer name lists only \$41,033 in contributions made  
27 by identified PBS&J employees during that time period, and neither DeLoach nor the likely  
28 conduits identified PBS&J as their employer in connection with contributions made to the  
29 Martinez Committee. See Martinez for Senate, 12 Day Pre-General Report at 308-310 (Oct. 22,  
30 2004).

Given that DeLoach will plead guilty in connection with the conduit contributions, we recommend that the Commission find reason to believe that he knowingly and willfully violated 2 U.S.C. § 441f.

### III. PROPOSED INVESTIGATION

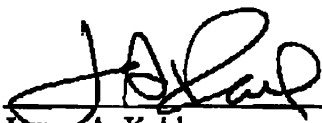
In particular, we will seek to discover: (1) Whether the money DeLoach used to reimburse conduits was his personal money or included corporate funds; (2) The relationship of the conduits to DeLoach and the extent to which they may be culpable; (3) Whether these six contributions are the only contributions that may have been reimbursed; (4) The role of PBS&J and/or its executives in the apparent reimbursement scheme; (5) Whether the Martinez Committee was the only recipient committee, and what it or other committees knew about these or other reimbursed contributions; (6) How the embezzlement and reimbursement schemes became known or the extent of DeLoach's cooperativeness with DOJ; and (7) What penalty DOJ is seeking against DeLoach.<sup>3</sup>

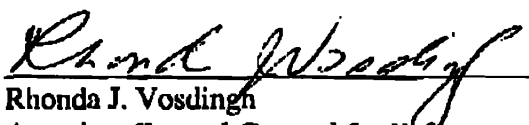
<sup>3</sup> One news article reported that DeLoach has given approximately \$16 million in assets, including homesteaded property and the proceeds from his 401(k) retirement account, to PBS&J. See Danner & Christensen, Sept. 19, 2006, *supra*. The Assistant U.S. Attorney noted that DeLoach may be unable to pay even the minimum statutory criminal penalty for the felony § 441f violation because the embezzlement charge requires him to relinquish virtually all he owns and imposes a future restitution obligation, such that DeLoach likely will be making payments long after he completes any potential prison sentence.

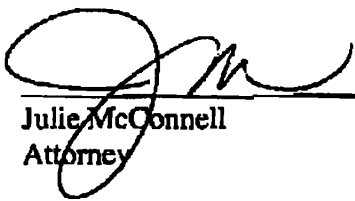
**IV. RECOMMENDATIONS**

1. Open a MUR.
2. Find reason to believe that William Scott DeLoach knowingly and willfully violated 2 U.S.C. § 441f.
3. \_\_\_\_\_
4. Approve the appropriate letters.

8/25/06  
\_\_\_\_\_  
Date

  
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